

Lexington, Kentucky July 6, 2006

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in regular session on July 6, 2006 at 7:00 P.M. Present were Mayor Teresa Ann Isaac in the chair presiding and the following members of the Council: Council Members Farmer, Gorton, Lane, McChord, Moloney, Myers, Scanlon, Shafer, Stevens, Stinnett, Wigginton, Brown, Cegelka, DeCamp and Ellinger.

The reading of the Minutes of the previous meeting was waived.

Ordinances No. 145-2006 thru 194-2006 inclusive and Resolutions No. 369-2006 thru 425-2006 inclusive were reported as having been signed and published, and were ordered to record.

Lexington, Kentucky July 6, 2006

The Invocation was given by Pastor Blake Shipp, Ph.D., Rosemont Baptist Church.

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Mr. Ellinger introduced Mr. Jim Host, Chairman of the World Equestrian Games, Inc., who spoke about the success of the Ky. Horse Park and how the attention of the world will be on Lexington, Kentucky and the Horse Park with this event. Mr. Host also complimented the Mayor and her staff on their support.

Mr. Host introduced Mr. Jack Kelly, FEI 2010 Games CEO, who explained that AllTech was a \$10 million sponsor, the largest ever for this event, and invited the Council to share their ideas for the event with his staff to help make this great for the entire community.

Mr. Ellinger stated that Ms. Becky Estepp, Administrative Aide to the Mayor, would be on the Board and would be the Lexington-Fayette Urban County Government's CEO for the games.

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Mr. Moloney introduced Mr. Robin Thomas and presented him with a Certificate of Appreciation for reporting vandalism in certain areas of Lexington.

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Ms. Shafer introduced Ms. Greta Lepa, a leader of the United Methodist Church's youth in Estonia, and gave her a Key to the City as an Honorary Citizen.

Ms. Lepa presented a gift from Estonia to the Mayor.

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Mr. Myers presented a Commemoration hailing and commending the Dept. of Social Services on their Re-Accreditation to Ms. Alayne White, Commissioner of the Dept. of Social Services.

Ms. White thanked the Mayor and Council for their support, spoke about the importance of the re-accreditation, and stated that a plaque displaying that would be placed in each of their buildings. She recognized and thanked the team members who had led the effort for it.

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Upon motion of Mr. DeCamp and seconded by Mr. Myers, the minutes of the June 8 and 20, 2006 Council Meetings were approved by unanimous vote.

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The following ordinances were given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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An Ordinance changing the zone from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone for 0.52 net (0.87 gross) acre of property located at 2202-2214 Coburn Blvd. (St. Ann Properties, LLC)

An Ordinance changing the zone from a Two Family Residential (R-2) zone to a Planned Neighborhood Residential (R-3) zone for 0.4823 net (0.5305 gross) acre of property located at 372 and 372 ½ Glen Arvin Avenue, subject to certain density restrictions imposed as a condition of granting the zone change. (Faith Community Housing Foundation, Inc.)

An Ordinance amending Article 8-2(d) of the Zoning Ordinance so as to allow conditional uses larger than 10,000 square feet in the Agricultural Buffer (A-B) zone, when the Agricultural Buffer (A-B) zone is adjacent to a county boundary, the property is a minimum of ten acres and is located with frontage on a state highway.

An Ordinance authorizing the Mayor to accept a Grant from the Ky. Transportation Cabinet, which grant funds are in the amount of \$96,000.00 Federal funds, are for the purchase of four additional 12-passenger vans for the LexVan VanPool Leasing Program, the acceptance of which obligates the Urban County Government for the expenditure of \$24,000.00 as a local match, appropriating funds pursuant to FY 2007, Schedule No. 20, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance amending certain of the budgets to reflect current requirements for municipal expenditures, and appropriating and re-appropriating funds, FY 2007 Schedule No. 21.

An Ordinance authorizing the Mayor to execute Change Order No. 1 to the contract with Parsons, Brinckerhoff, Quade & Douglas, Inc., for engineering services for Glendover West Stormwater Improvement Project, increasing the contract price by the sum of \$55,000.00 from \$58,426.05 to \$113,426.05, and appropriating funds pursuant to Schedule No. 22.

An Ordinance amending Section 21-5 of the Code of Ordinances abolishing the position titles of Communications Officer-Apprentice, Grade 110N, and Communications Officer Senior-Apprentice, Grade 112N, in the Div. of Police; abolishing one (1) vacant position of Communications Officer Senior, Grade 113N, in the Div. of Fire; creating one (1) position of Communications Officer, Grade 111N, in the Div. of Police; transferring thirty-one (31) positions of Communications Officer, Grade 111N, and the incumbents, from the Div. of Police to the Div. of Enhanced 911; transferring ten (10) positions of Communications Officer Senior, Grade 113N, and the incumbents, and one (1) vacant position of Communications Officer Senior, Grade 113N, from the Div. of Fire to the Div. of Enhanced 911; transferring twenty-four (24) positions of Communications Officer Senior, Grade 113N, and the incumbents from the Div. of Police to the Div. of Enhanced 911; transferring three (3) vacant positions of Communications Shift Manager, Grade 116E, from the Div. of Police to the Div. of Enhanced 911; transferring four (4) positions of Communications Shift Manager, Grade 116E, and the incumbents, from the Div. of Police to the Div. of Enhanced 911; transferring four (4) positions of Communications Shift Manager, Grade 116E, and the incumbents, from the Div. of Fire to the Div. of Enhanced 911; transferring one (1) position of Communications Manager, Grade 117E, and the incumbent, from the Div. of Fire to the Div. of Enhanced 911; transferring two (2) positions of Communications Officer – P/T, Grade 111N, and the incumbents, from the Div. of Police to the Div. of Enhanced 911; changing the position title and the title of the incumbents from Communications Officer – P/T, to Telecommunicator – P/T, in the Div. of Enhanced 911; changing the position title and the title of the incumbents from Communications Officer to Telecommunicator in the Div. of Enhanced 911; changing the position title and the title of the incumbents from Communications Officer Senior to Telecommunicator Senior, in the Div. of

Enhanced 911; changing the position title and the title of the incumbents from Communications Shift Manager to Telecommunicator Supervisor, in the Div. of Enhanced 911; and changing the position title and title of the incumbents from Communications Manager to Public Safety Answering Point (PSAP) Manager in the Div. of Enhanced 911; all to become effective June 26, 2006.

An Ordinance amending Sections 21-25, 22-22, 22-5, 22-53.2, and 23-28 of the Code of Ordinances providing a two and four tenths percent (2.4%) structure movement to the salary schedules applicable to classified civil service employees, unclassified civil service employees, and traffic school guards, and a two and four tenths percent (2.4%) increase to the maximum of the pay range of Program Assistant – P/T, providing that all classified and unclassified civil service employees, except seasonal employees in Account 332, who receive a satisfactory score on their performance evaluation, pursuant to Sections 21-29(d) and 22-26(5) of the Code of Ordinances, shall receive a three and eight tenths percent (3.8%); amending Section 23-28 of the Code of Ordinances replacing the existing salary structure for sworn bargaining unit employees within the Div. of Fire (Firefighter, Lieutenant, Captain, and Major) and the Div. of Police (Officer, Sergeant, Lieutenant, Captain); allowing non-bargaining unit appointed sworn positions in the Div. of Police and the Div. of Fire to receive the same compensation as bargaining unit employees, including benefits; and modifying the existing step structure for the positions of Fire Battalion Chief, Grade 319E, Police Chief, Grade 324E, and Fire Chief, Grade 324E; increasing the salary by three and eight tenths percent (3.8%) of one (1) position of Friend of the Court, Grade 000, within the Office of the Circuit Judges, one position of ABC Administrator – P/T, Grade 000, within the Office of Alcohol Beverage Control, three (3) positions of Law Clerk – P/T, Grade 000, within the Dept. of Law, three (3) positions

of Skilled Trade Worker – P/T, Grade 000, within the Div. of Community Corrections, and one (1) position of Park Patrol Coordinator – P/T, Grade 000, and thirty (30) positions of Park Patrol Officer – P/T, Grade 000, within the Div. of Parks, all to become effective June 26, 2006.

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An Ordinance amending subsection (10) of Section 14-72 of the Code of Ordinances to provide that an animal causes a noise disturbance when it emits a sound of such character, intensity and duration as to disturb the peace and quiet of the neighborhood and provide that a dog shall be deemed to have caused a per se noise violation if it barks or makes other noise continuously or incessantly for a period of five minutes or intermittently for a period of ten minutes; and, amending Section 14-80 of the Code to provide for forfeiture of the offending dog upon a conviction of a fourth noise violation offense within a twelve-month period was given second reading.

The following citizens spoke in support of the ordinance: (1) Mr. Bill Curry and (2) Ms. Phyllis Surgener.

The following citizens spoke against the ordinance: (1) Ms. Sandy Lawson, (2) Mr. James Keston, (3) Mr. Robert Dalton, (4) Mr. Michael Hefling, (5) Ms. Mary Webb and (6) Ms. Heidi Ewen.

Ms. Shafer made a motion, seconded by Mr. Myers, to table the ordinance until after the summer break, and to then schedule a date to have public comment on it.

The motion passed by a vote of 12-3 (Mr. Scanlon, Dr. Stevens and Mr. Cegelka voted no).

The ordinance was removed from the docket until a later date.

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Upon motion of Mr. Myers, seconded by Mr. McChord and passed by unanimous vote, an Ordinance amending Section 23-5 of the Code of Ordinances creating two (2) positions of Police Captain, Grade 318E, in the Division of Police, to become effective July 10, 2006 was placed on the docket and given first reading.

Upon motion of Mr. Myers and seconded by Mr. McChord, the rules were suspended by unanimous vote. The ordinance was given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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The following ordinances were given first reading and ordered placed on file until July 11, 2006 for public inspection.

An Ordinance accepting the bid of D. C. Byers Co./Ohio, Inc. in the amount of \$1,127,795.00, for restoration of Phoenix and Victorian Square Parking Garages, for the Dept. of General Services and appropriating funds pursuant to FY 2007 Schedule No. 31.

An Ordinance amending certain of the budgets of the Lexington-Fayette Urban County Government to reflect current requirements for municipal expenditures, and appropriating and reappropriating funds, Schedule No. 29.

An Ordinance authorizing the Mayor to accept a donation of \$600.00 from Chapel Hill Presbyterian Church, for the Gainesway Community Empowerment Center to use for summer activities, and appropriating funds pursuant to FY 2007 Schedule No. 23.

An Ordinance authorizing the Mayor to accept a donation of \$120.00 from the Fayette County Board of Education, for the Gainesway Community Empowerment Center to use for summer activities, and appropriating funds pursuant to FY 2007 Schedule No. 24.

An Ordinance authorizing the Mayor to accept a donation of \$5,000.00 from LexLinc, for the Gainesway Community Empowerment Center to fund the Citizens Leadership Academy, and appropriating funds pursuant to FY 2007 Schedule No. 25.

An Ordinance authorizing the Mayor to accept a Grant from the Ky. Dept. of Juvenile Justice, which grant funds are in the amount of \$275,846.00 (FY 2007) and \$275,846.00 (FY 2008) Commonwealth of Ky. funds are for implementation of the Community Juvenile Justice Partnership Grant Program for fiscal years 2007 and 2008, for the Partners for Youth Foundation, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, and further authorizing the Mayor to execute Agreements for services under the Program for FY 2007 with Bluegrass Regional Mental Health – Mental Retardation Board, Inc., for the Dixie Elementary School Project (\$54,000.00), the Board of Education of Fayette County, Kentucky, for the Booker T. Washington Prevention Project (\$60,000.00), the Partners for Youth Foundation for Program Coordination (\$49,700.00), and Croney and Clark for the Pro-Social Education and Community Engagement (PEACE) Project at Deep Springs Elementary School (\$35,000.00) and the Truancy Reduction Initiative (\$53,550.00), at a cost not to exceed \$252,250.00, appropriating funds pursuant to FY 2007 Schedule No. 27, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance authorizing the Mayor to accept a Grant from the Ky. Dept. of Juvenile Justice, which grant funds are in the amount of \$80,000.00 (\$40,000.00 FY 2007 and \$40,000.00 FY 2008) Commonwealth of Ky. funds, are for the Brenda D. Cowan Center to continue operation of the Transition Plus Program, the acceptance of which does not obligate the Urban County Government for the expenditure of funds, appropriating funds pursuant to FY 2007 Schedule No. 28, and authorizing the Mayor to transfer unencumbered funds within the grant budget.

An Ordinance approving and adopting the program amendment for use of Community Development Block Grant funds in the 2004 Consolidated Plan to establish a new project that includes the acquisition of properties and relocation of residents on Ann Street for the purposes of constructing an extended Shropshire Boulevard as part of the Bluegrass Aspendale Revitalization Project (\$200,000.00), appropriating funds pursuant to Schedule No. 32, and authorizing the Mayor to transfer unencumbered funds with the grant budget.

An Ordinance authorizing the Mayor to execute an Agreement with the Board of Education of Fayette County, Ky. for the provision of services under the 21st Century Community Learning Center Program, at a cost not to exceed \$99,906.00, and appropriating funds pursuant to FY 2007 Schedule No. 26.

An Ordinance authorizing the Mayor to execute a Contract to Purchase with Ben Wade and Mary Jo Crawford, for the property located at 3010 Evans Mill Road, at a cost not to exceed \$1,715,000.00, and appropriating funds pursuant to Schedule No. 30.

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The following resolutions were given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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A Resolution authorizing the Mayor to execute an Option and Ground Lease Agreement with Alaskan Native Broadband 1 License, LLC, for ground equipment space in Veteran's Park associated with collocation on a tower to be constructed by Powertel/Memphis, Inc., at no cost to the Urban County Government.

A Resolution accepting the bids of PlymoVent Corp. in the amount of \$80,250.00 and Clean Air Concept, in the amount of \$8,125.00, for vehicle exhaust removal systems at Station House Numbers 1, 2, and 17, for the Div. of Fire.

A Resolution accepting the bid of Tim Garnett LLC, in the amount of \$17,680.00, for HVAC installation at the Lou Johnson Community Center, for the Div. of Parks.

A Resolution accepting the bid of Man-O-War Harley-Davidson establishing a price contract for motorcycles, for the Div. of Police.

A Resolution accepting the bid of Detroit Salt Co. establishing a price contract for treated rock salt, for the Div. of Streets, Roads and Forestry.

A Resolution authorizing the Mayor to execute a Professional Services Agreement with Lose & Associates, Inc., for the Hisle Park Master Plan, at a cost not to exceed \$29,225.00.

A Resolution adopting an Amended Version of the Procedure on Establishing a Residential Parking Permit Program to add consideration of multi-unit residences for eligibility for permits and to allow the designation of districts less than one block in length, but no less than 500 feet of frontage along the street.

A Resolution authorizing the Mayor to execute and submit a Grant Application to the Ky. Dept. of Juvenile Justice and to provide any additional information requested in connection with this grant application, which grant funds are in the amount of \$90,000.00 Federal funds, and are for establishment of the Truancy Assessment Center.

A Resolution authorizing the Mayor to execute a Certificate of Consideration and to accept a Deed conveying a permanent storm sewer easement from Larry T. and Thelma L. Shepard, located at 269 Perry Street, for the Perry Street Project, at no cost to the Government.

A Resolution authorizing the Mayor to execute Change Order No. 1 to the contract with Kyova Electric, Inc., for Cardinal Run Field #8 Sports Lights, increasing the contract price by the sum of \$2,325.00 from \$71,971.84 to \$74,296.84.

A Resolution authorizing the Mayor to execute Change Order No. 1 to the contract with Howell & Howell Contractors, Inc., for the North Base Roof Replacement in the Div. of Parks, increasing the contract price by the sum of \$1,350.00 from \$62,750.00 to \$64,100.00.

A Resolution authorizing the Mayor to execute an Agreement with Fayette Fiscal Court and Sandra M. Varellas, Fayette County Judge/Executive for the FY 2007 County Road Aid Fund Program for Fayette County.

A Resolution authorizing the Mayor to execute Change Order No. 1 to the contract with Spectrum Contracting Services, Inc., for renovation, seventh floor of the Phoenix Building, increasing the contract price by the sum of \$23,149.00 from \$149,869.00 to \$173,018.00.

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A Resolution authorizing the Mayor to execute Change Order No. 1 to the contract with Red River Ranch, LLC, for the removal and disposal of pond sediment for the Gainesway Retention Basin Retrofit Project increasing the contract price by the sum of \$100,000.00 from \$189,258.00 to \$289,258.00 was on the docket for second reading.

Mr. Myers made a motion, seconded by Ms. Gorton and passed by majority vote, to table the resolution until an itemized list of all of the parts of the project, the report on it from the Ky. Div. of Water, and the results of the internal investigation by the Dept. of Public Works were given to the Council.

The resolution was removed from the docket until a later date.

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A Resolution ratifying the probationary civil service appointments of: Alvaro Polanco, Building Inspector, Grade 113N, \$19.156 hourly, in the Div. of Building Inspection, effective June 26, 2006, Sonya Taylor, Equipment Operator Sr., Grade 109N, \$13.197 hourly, in the Div. of Solid Waste, effective June 26, 2006, Paul L. Smith, Public Service Worker, Grade 106N, \$11.041 hourly, in the Div. of Fleet Services, effective June 19, 2006, Ronald Ellis, Skilled Trades Worker Sr., Grade 112N, \$21.922 hourly, in the Div. of Parks, effective July 10, 2006, Albert Mason, Traffic Information Technician, Grade 112E, \$1,753.74 bi-weekly, in the Div. of Traffic Engineering, effective June 26, 2006, David Templar, Engineering Technician Sr., Grade 113N, \$15.700 hourly, in the Div. of Traffic Engineering, effective July 24, 2006, Michelle Castellani, Kenneth Wilson, Cathy Lazarin, Don Salchli, Linda Migglebrink, Natesha Smith, Randy Adams, Monty Corbett, Michael Young, Valerie Clayburn, Bill DeWitt, Joshua Roberts, Mark Evans, Joquetta Leach-McCord, Jason Adams, Ashley Mudd, Jessica Gillis, Precious Robertson, Robert Stephens, Christopher Baxter, Keith Mlejnek, Kinsey Henderson, Danius Jackson, Burneard Clark, Yetivia Jacina, Michael Estes, Kenneth Rogers, James Young, Jonathan Branton, Eric Groves, Akilah Kidd, Dean Burgess, Andre Williams, Linda Silva, Timothy Wendling, Russell McFarland and Jessica Story, Community Corrections Officer, Grade 110N, \$12.513 hourly, in the Div. of Community Corrections, effective July 10, 2006; ratifying the permanent civil service appointments of: Robert Jones, Skilled Trades Worker Sr., Grade 112N, in the Div. of Building Maintenance and Construction, effective July 9, 2006, Pete Spencer, Security Officer, Grade 103N, in the Dept. of General Services, effective June 26, 2006, Zhiqiang Yu, Database Administrator, Grade 117E, in the Div. of Computer Services, effective May 28, 2006, Alfred Wingate, Public Service Worker Sr., Grade 107N, in the Div. of Parks, effective June 26, 2006; approving leave of absence for: Melynda Milburn, Staff to Council

II, Grade 000E, in the Office of the Urban County Council, requests a 2 day Council approved leave without pay from July 5, 2006 through July 6, 2006, Amir Sadr, Computer System Manager Sr., Grade 120E, in the Div. of Computer Services, requests 10 days Council leave without pay from June 30, 2006 through July 11, 2006 was given first reading.

Upon motion of Mr. Wigginton and seconded by Mr. Brown, the rules were suspended by unanimous vote. The resolution was given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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Upon motion of Mr. Lane, seconded by Ms. Gorton and passed by unanimous vote, a Resolution authorizing the Mayor to execute a Release of Easement, releasing two (2) utility easements and a water line easement on property located on Walnut Hill-Chilesburg Road (Schneider Designs, Inc.) was placed on the docket and given first reading.

Upon motion of Mr. Lane and seconded by Ms. Shafer, the rules were suspended by unanimous vote. The resolution was given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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Upon motion of Mr. Wigginton, seconded by Ms. Gorton and passed by unanimous vote, a Resolution authorizing the Mayor to execute an Agreement with Commonwealth of Ky.

Transportation Cabinet, Dept. of Highways, to reimburse the Urban County Government up to \$190,000.00 for construction of bike lanes as part of the Leestown Road Resurfacing improvements was placed on the docket and given first reading.

Upon motion of Mr. Wigginton and seconded by Mr. Brown, the rules were suspended by unanimous vote. The resolution was given second reading and passed by the following vote:

Aye: Farmer, Gorton, Lane, McChord, Moloney,
Myers, Scanlon, Shafer, Stevens, Stinnett,
Wigginton, Brown, Cegelka, DeCamp, Ellinger _____ 15

Nay: _____
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The following resolutions were given first reading and ordered placed on file until July 11, 2006 for public inspection.

A Resolution providing that the position of Staff to Council II shall receive the same as a two and four-tenths percent (2.4%) structure movement and providing a three and eight-tenths percent (3.8%) increase in salary to those persons holding the position of Staff to Council II who receive a satisfactory score on their performance evaluations, not to exceed the maximum salary range of \$51,200.00, to become effective retroactive to June 26, 2006.

A Resolution authorizing the Div. of Traffic Engineering, pursuant to Code of Ordinances Section 18-66, designating the speed limit on Saron Drive as 25 miles per hour and authorizing the Div. of Traffic Engineering to install proper and appropriate signs in accordance with the designation.

A Resolution adopting the Floodplain Management Plan for 2006.

A Resolution making a Declaration of Official Intent with respect to reimbursement from subsequent borrowings of temporary advances made for capital expenditures for parking garage

improvements, computer equipment, and an animal control shelter building in the aggregate amount of \$1,737,930.00.

A Resolution authorizing the Mayor to execute Change Orders to the contract with D. C. Byers, in the amount of \$1,127,795.00, for restoration of Phoenix Garage and Victorian Square Garage, provided: budgeted funds are available for such change orders; the cumulative total for all project change orders does not exceed \$55,000.00; no individual change order shall exceed \$12,500.00; no change order has the effect of significantly changing the scope of the contract; and notice of each change order so executed shall be furnished to the Urban County Council.

A Resolution authorizing the Mayor to execute an Expansion Area Development Exaction Agreement with Providence Business Center, LLC pursuant to Article 23 of the Zoning Ordinance setting out the type and cost of system improvements constructed by the developer in Expansion Area 3 and adjoining off-site area, the amount of exaction credits earned, use for the exaction credits and amount of repayment to the developer from the Development Exaction Fund.

A Resolution authorizing the Mayor to execute a Memorandum of Agreement with Lexington-Fayette Urban County Airport Board, for building and maintaining an obstacle course on approximately 10 acres of airport premises, at no cost to the Urban County Government.

A Resolution authorizing the Mayor to execute the Agreements with Belleau Wood Neighborhood Association, Inc. (\$850.00), Lansdowne Neighborhood Association, Inc. (\$5,189.00), Palomar Hills Community Association, Inc. (\$5,000.00), Headley-Whitney Museum, Inc. (\$2,000.00), Hartland Homeowners Association, Inc. (\$8,000.00), Waterford Homeowners Association, Inc. (\$6,500.00), Charleston Woods Homeowners Association, Inc. (\$6,700.00) for various public projects for the Office of the Urban County Council, at a cost not to exceed the sums stated.

A Resolution amending Resolution No. 364-2006 to decrease the allocation of Neighborhood Development funds to the Howe Charities, Inc. from \$850.00 to \$650.00.

A Resolution amending Resolution No. 361-2006 to decrease the allocation of Neighborhood Development funds to Fayette County 4-H Council, Inc. from \$2,800.00 to \$1,000.00.

A Resolution authorizing the Mayor to execute Change Order No. One (1) to the contract with P & P Professional Painting, for Carriage House Exterior Painting, increasing the contract price by the sum of \$1,234.00 from \$16,630.00 to \$17,864.00.

A Resolution authorizing the Mayor to execute Amendment No. One (1) to the Contract with Quest Engineers, Inc., for engineering services for design of Section One of the Todds Road/ Liberty Road Phase I Widening Project, increasing the contract price by the sum of \$119,108.00 from \$776,789.00 to \$895,897.00.

A Resolution authorizing the Mayor to execute Change Order No. 9 to the Contract with D. W. Wilburn, Inc., for the Day Treatment Facility, decreasing the contract price by the sum of \$607.00 from \$4,154,138.93 to \$4,153,531.93.

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Upon motion of Mr. Myers, seconded by Mr. Stinnett and passed by unanimous vote, a Resolution authorizing the Mayor to execute the Fifth Amendment to Professional Services Agreement with Patricia K. Howard, for EMS training coordinator services, and authorizing payment in the amount of \$23,700.00, effective retroactive to July 1, 2006 was placed on the docket, given first reading and ordered placed on file until July 11, 2006 for public inspection.

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Upon motion of Mr. Farmer, seconded by Mr. McChord and passed by unanimous vote, a Resolution amending Resolution No. 68-2006 declaring a moratorium to extend the duration of the moratorium until September 15, 2006 or until the Council takes final action on the downzoning, whichever event occurs first was placed on the docket and given first reading.

Mr. Cegelka and Mr. DeCamp asked Mr. Farmer about the timeframe for the moratorium.

The Resolution was ordered placed on file until July 11, 2006 for public inspection.

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A Resolution authorizing the Mayor to execute a Lease Agreement with Lexington Youth Soccer Association, for 44 acres at Cardinal Run Park North, to build and maintain a soccer complex, at no cost to the Urban County Government was on the docket for first reading.

Mr. Lane made a motion, seconded by Mr. Farmer, to remove the resolution until July 11, 2006 after a proposed mediation meeting between LYSA and Wellesley Heights took place.

Mr. Bruce Simpson, attorney representing Wellesley Heights Neighborhood Association and Mr. Ron Turner, requested that the Council postpone consideration of the resolution until after the Council returned in August because additional time was needed to consider the issue.

Mr. Foster Ockerman, Jr., attorney for LYSA, asked those in support of the resolution to stand, and requested that the Council not postpone consideration of the resolution because the issue needed to be resolved so there would be time to construct the soccer fields.

Mr. Moloney asked Mr. Bill Carman, Deputy Director, Div. of Parks and Recreation, about the history of the proposed soccer field use on the property, and stated that more information was needed on the issue.

The Mayor asked Ms. Trig Bowman, a representative from the West Gardenside Neighborhood Association, whether the neighborhood association would be able to be at the proposed mediation meeting on Monday.

Ms. Bowman stated that they would not be able to meet then.

Mr. Moloney made a motion, seconded by Mr. Myers and passed by majority vote, to amend Mr. Lane's motion to include the Neighborhood Associations listed in the Cardinal Run Master Plan on those to be included in any mediation.

Mr. McChord asked Mr. Carman to explain what effect postponing the resolution would have.

Mr. Carman stated that it would delay the engineering and construction work on the fields, especially concerning preparing the soccer turf.

Mr. Cegelka made a motion, seconded by Mr. McChord, to remove the resolution from the docket until August 17th.

There was a discussion among the Council on the motion.

The Mayor requested that the citizens present who wanted to be notified further about meetings on this issue sign up on the list tonight that Jerry Southers, Acting Council Administrator, was putting together.

There was a discussion among the Council on the issues involved.

The motion passed by unanimous vote.

Mr. Ockerman asked the Mayor about what would occur on August 17th, and the Mayor stated that it would be for first reading of the resolution and any public comment.

The resolution was removed from the docket until August 17, 2006.

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Upon motion of Ms. Shafer, seconded by Ms. Gorton and passed by unanimous vote, the communications from the Mayor were approved and are as follows: (1) recommending reappointment of Derek Wingfield to the Board of Architectural Review with a term to expire 7-1-2010. Also, recommending the appointment of Jack Ballard to the Board of Architectural Review with a term to expire 7-1-2010; (2) recommending the appointment of Kim Thomas, Health Dept. Representative, to the Citizens Corps Council with a term to expire 12-16-2009; (3) recommending the reappointment of Sanford T. Roach to the Housing Authority Board with a term to expire 6-22-2010; (4) recommending the appointment of Darren Duzyk to the Library Board of Advisors with a

term to expire 1-1-2010. Mr. Duzyk will fill the unexpired term of Richard Browning; (5) recommending the reappointments of Ralph Coldiron and Larry Smith to the Library Board of Trustees with terms to expire 7-20-2010. Also, recommending the appointment of Richard Browning to the Library Board of Trustees with a term to expire 7-20-2010; (6) recommending the appointment of Kenya Paris to the One Parent Facility Board with a term to expire 4-1-2009. Ms. Paris will fill the unexpired term of Joyce Gill and (7) recommending the appointment of Jeff Haselwood to the Tree Board with a term to expire 4-19-2007. Mr. Haselwood will fill the unexpired term of Kyle Whalen.

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The following communications were received from the Mayor for information only: (1) Resignation of Delsie Stevens, Skilled Trades Worker Sr., Grade 112N, in the Div. of Parks, effective June 2, 2006 and (2) Resignation of James Stewart, Public Service Worker, Grade 106N, in the Div. of Parks, effective May 29, 2006.

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Mr. Scanlon announced that Ky.-American Water Co. was donating \$25,000 for water for the public swimming pools.

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Mr. Robert Dalton, announced that the Georgetown St. Neighborhood Association would be holding a meeting on July 10th at 6:00 p.m. , and that KY's Not-So-Fancy Farm Picnic event was scheduled for July 12th at 5:00 p.m. at the Ky. Horse Park with a number of speakers scheduled.

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The Council recessed at 8:35 p.m.

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At 8:41 p.m., the Council returned with the same members present.

Vice-Mayor Scanlon was in the chair presiding in the absence of the Mayor.

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Police Chief Anthany Beatty stated that Officer Richard C. Sisk has committed the offense of Unbecoming Conduct in violation of KRS 95.450 and Lexington Division of Police General Order 73-2/G, Section 1.02 in that on the 20th day of March, 2006 while off duty, Officer Richard Sisk posted to web site Myspace.com identifying himself as a Lexington Police Officer, Officer Sisk posted on his web site, or allowed to remain posted, language and images which were profane and/or insolent, in addition, Officer Sisk posted to other Myspace web sites using language which was profane and/or insolent, that these actions reflected negatively upon the officer and the Div. of Police, and that the appropriate punishment for this conduct is 80 hours Suspension Without Pay and Sensitivity Training.

Upon motion of Ms. Shafer and seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

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Police Chief Anthany Beatty stated that Officer Aaron R. Noel has committed the offense of Unbecoming Conduct in violation of KRS 95.450 and Lexington Div. of Police General Order 73-2/G, Section 1.02 in that on the 20th day of March, 2006 while off duty, Officer Aaron Noel posted to web site Myspace.com language identifying himself as a Lexington Police Officer through word and image, Officer Noel used profane and insolent language in his communications while posting to other web sites, specifically, Officer Noel's communications were accompanied by photos of him in a police uniform while sitting in a police vehicle, that these actions brought the Div. of Police into disrepute and reflected discredit upon Officer Noel as a member of the Division, and that the appropriate punishment for this conduct is 80 hours Suspension Without Pay and Sensitivity Training.

Upon motion of Ms. Gorton and seconded by Mr. Farmer, the disciplinary action was approved by unanimous vote.

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Police Chief Anthany Beatty stated that Officer Paul D. Stewart has committed the offense of Unbecoming Conduct in violation of KRS 95.450 and Lexington Div. of Police General Order 73-2/G, Section 1.02 in that on the 20th day of March, 2006 while off duty, Officer Paul Stewart posted to web site Myspace.com language identifying himself as a Lexington Police Officer through word and image, Officer Stewart posted on his web site, as well as other Myspace internet web sites, images and language that was profane and insolent, that these actions reflected negatively upon the officer and the Div. of Police, and that the appropriate punishment for this conduct is 80 hours Suspension Without Pay and Sensitivity Training.

Upon motion of Ms. Shafer and seconded by Ms. Gorton, the disciplinary action was approved by unanimous vote.

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An Ordinance amending Article 8-1(b) of the Zoning Ordinance so as to allow churches and Sunday schools larger than the current 10,000 square foot maximum as a principal use in the Agricultural Rural (A-R) zone, provided that the property is located with frontage on a four-lane highway and has access to sanitary sewer, requiring a minimum twenty-five percent open space and a minimum fifty foot building setback, and establishing a minimum fifty foot set back, screening and landscape requirements for all parking areas was given second reading with a public hearing being held.

Mr. McChord stated that he was recusing himself from the public hearing because he was a member of Quest Community Church.

The Vice-Mayor swore in the witnesses and explained the procedures of the public hearing.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal notice, (2) Affidavit of letters mailed, (3) MAR 2005-1, Final Report and minutes of the Planning Commission, (4) Zoning Ordinance with amendments, (5) Letters and Emails (five in opposition; 35 in support), (6) Adopted Comprehensive Plan Map and (7) Excerpt from the Zoning Ordinance – Section 8-1 on A-R Zone uses.

Mr. Richard Murphy, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Petition packet, (2) Applicant's Exhibits handout, (3) Letter from The Becket Fund, and (4) DVD presentation.

The following witnesses spoke in favor of the requested zone change: (1) Mr. Stan Napier, commercial real estate agent, and (2) Mr. Pete Hise, Pastor of Quest Community Church.

Mr. David Royse, attorney representing the objectors – SOIL (Save Our Irreplaceable Land), which included the adjoining Mill Ridge Farm, Calumet Farm, a number of other horse farms, Keeneland, and the KY Thoroughbred Association, gave the reasons against the requested zone change, and filed the following exhibits: (1) Photograph of area, (2) Photograph of subject property next to Mill Ridge Farm, (3) Handout – staff report on ZOTA 94-6, (4) Minutes of the January 23, 2003 Planning Commission Meeting, (5) Chart showing zones in which churches are permitted and (6) Chart showing Vacant USA Land as of the 2005 Existing Inventory and Absorption Rates by Category since the 2001 Comprehensive Plan.

Mr. Royse stated that this was a site specific issue and he spoke on the importance of the land in Fayette County.

Mr. Murphy made an objection to Mr. Royse presenting zone change-type material concerning the property.

The Vice-Mayor stated that they were watching that carefully.

The following citizens spoke against the requested zone change: (1) Mr. Don Robinson, Vice President of the Fayette Co. Farm Bureau, who filed the following exhibit: (a) Letter of opposition from the Fayette Co. Farm Bureau; (2) Mr. Walt Gaffield, Bamboo Drive, Chair of the Planning and Zoning Committee of Harrods Hill Neighborhood Association, and President of Fayette County Neighborhood Council, who filed the following exhibit: (a) Letter of opposition from the Harrods Hill Neighborhood Assoc.; and (3) Ms. Knox VanNagell, Executive Director of The Fayette Alliance, who filed the following exhibit: (a) Letter of opposition from The Fayette Alliance.

The following citizens spoke in support of the requested zone change: (1) Mr. David Burandt, (2) Mr. Russell West, (3) Mr. Billy Fray, Youth Minister at Quest Community Church, (4) Ms. Lorelei Fray, (5) Ms. Eli Vantreese, (6) Mr. Gordon Denmark, (7) Ms. Kathy Denmark, (8) Ms. Terri Schwarz and (9) Mr. Craig Timmerman.

Mr. Sallee presented additional information concerning Mr. Murphy's testimony.

Mr. Murphy gave his rebuttal.

Mr. Royse gave his rebuttal.

The Council asked questions of Mr. Murphy, Mr. Sallee, Mr. Royse, who presented the additional following exhibit: (7) Handout on RLUIPA, Mr. Gaffield, and Mr. Hise.

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Please Note: The public hearing went past midnight and continued into the following day, July 7, 2006.

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The Council asked Mr. Ed Gardner, Dept. of Law, about the type of questions the Council could ask concerning the proposed text amendment.

Mr. Lane made a motion, seconded by Ms. Gorton, to call for the question concerning the ordinance.

Mr. Wigginton made a motion, seconded by Mr. Stinnett, to amend Mr. Lane's motion in order to increase the open space required by the ordinance from 25% to 50%.

There was a discussion among the Council on the motions.

The Council asked Mr. Gardner about the motions.

Dr. Stevens pointed out that a motion to call for the question was not debatable and could not be amended.

Mr. Lane's motion **failed to pass** by a vote of 7-7.

Mr. Wigginton made a motion, seconded by Mr. Myers, to amend the ordinance to require a minimum 50% open space instead of 25%.

Ms. Gorton asked Mr. Sallee about the motion, and spoke against the amendment because it was a text amendment and not a zone change.

Dr. Stevens recommended that the issue be referred to the Council's Planning Committee.

Vice-Mayor Scanlon temporarily turned the chair over to Mr. Ellinger so he could speak on the issue.

Mr. Scanlon spoke in support of the increased open space requirement.

Mr. Lane and Mr. DeCamp spoke against the ordinance.

Mr. Wigginton's motion **failed to pass** by a vote of 7-7.

The ordinance **failed to pass** by the following vote:

Aye: Farmer, Myers, Scanlon, Wigginton, Brown, Ellinger _____
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Nay: Gorton, Lane, Moloney, Shafer, Stevens, Stinnett, Cegelka, DeCamp _____ 8

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The Council adjourned at 1:16 a.m.

Clerk of the Urban County Council